

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.12282 of 2007

Date: 14.06.2007

Between:

Mohd.Afzal.

....Petitioner

and

The Central Power Distribution Company of A.P. and others.

....Respondents

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ORDER:

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The petitioner is a consumer under L.T. Category-II (Commercial). The premises were inspected on 17.04.2007 and certain acts and omissions were noticed by the respondents, which they attributed to the petitioner. Notice of provisional assessment for theft of electricity, dated 23.04.2007, was issued pointing out that the value of the electricity stolen by the petitioner was assessed at Rs.3,27,244/- and the power supply was disconnected. The petitioner was given an option to pay a sum of Rs.1,63,622/- together with supervision charges to get the power supply restored and to pay the balance in instalments. The petitioner challenges the same.

The learned counsel for the petitioner submits that even in the first week of April 2007, the respondents inspected the premises and no incriminating material was found and assessment of charges for one year backwards is opposed to the provisions of the Electricity Act and the Rules made thereunder.

The learned standing counsel for the respondents, on the other hand, submits that when serious allegations of theft of power are made, the impact thereof cannot be restricted to the immediate past. He submits that the actual liability of the petitioner would be determined while passing the order of final assessment or in the proceedings that may be initiated before the Special Court.

As of now, the petitioner is facing an allegation of theft of power. The truth or otherwise of the same needs to be determined in the proceedings that may be initiated in accordance with the relevant provisions of law. The adjudication thereof naturally takes some time. The petitioner cannot be required to shell down the entire amount even while the allegation against him is yet to be proved.

This Court is of the view that the interest of the parties can be protected by directing the petitioner to pay one-fourth of the amount provisionally assessed against him, as a condition precedent for restoration of power supply.

Hence, the writ petition is disposed of, directing the respondents to restore the power supply to the petitioner, subject to payment of one-fourth of the amount provisionally assessed i.e. Rs.82,000/- (Rupees eighty two thousand only). It is, however, made clear that the petitioner shall be liable to pay the amount that may be indicated in the order of final assessment or any other proceedings as may be initiated by the respondents, in accordance with law. There shall be no order as to costs.

14.06.2007

kdl